



1TGU-FLC-OPM 5-5-MC

DATE: December 26, 2001
SESA ISSUANCE NO.: 02-08
SUBJECT: H-2A Positive and Active Recruitment, effective immediately

1. PURPOSE: To remind stakeholders of the Agricultural Labor Certification (H-2A) program of WORKER RECRUITMENT requirements.

2. REFERENCES: 20 CFR Part 655, Subpart B; 20 CFR Part 501; 20 CFR Part 653, Subpart F; 20 CFR Part 654, Subpart E, and 29 CFR 1910.142; 8 U.S.C. 1188(c)(1) and (c)(3)(A), as amended by Pub. L. 1-6-78 sec. 748; 64 Fed. Reg. 34957-34966; ETA Handbook # 398; and 20 CFR 658, Subparts E and F.

3. BACKGROUND: The Recruitment component of the H-2A Program is addressed in various areas within the references listed above; therefore, its importance cannot be over emphasized under ***both positive and active*** efforts. With that in mind, the USDOL Boston Regional Office prepared this SESA to revisit this vital component of the H-2A program.

4. PROGRAM ISSUES-- Positive Recruitment Efforts: a) In addressing these efforts, ETA Regulations at 20 CFR 655.105 directly require employers to exercise recruitment efforts that "shall be not less than: 1) The recruitment efforts of non-H-2A agricultural employers of comparable or smaller size in the area of employment; and 2) The kind and degree of recruitment efforts, which the potential H-2A employers made to obtain H-2A workers."

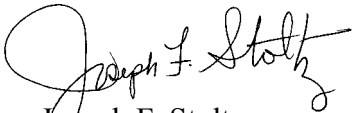
Active Recruitment Efforts: b) In addressing these efforts, ETA Regulations at 20 CFR 655 103(d)(2) require employers to follow through in "... Placing advertisements (in a language other than English, where the RA determines appropriate) for the job opportunities in newspapers of general circulation and/or on the radio, as required by the RA: ..." The Regulations then go on to describe in detail the required content of such newspapers adds.

5. ACTION REQUIRED: For this year (2002), and subsequent years, all H-2A applications must have, at least, one newspaper ad that will confirm the Active Recruitment efforts of the employer as indicated in section 4(b) of this SESA.

This will be done in addition to the Positive Recruitment efforts, outlined in section 4(a) above, which are met by the proposed positive recruitment plan included in each application, and that is subsequently corroborated by the pre-certification submittal of employers' recruitment form to the Regional Office.

Employers should contact their State Local Office immediately for further guidance, if unsure of all the elements that must be included in each newspaper add—drafts of adds will be accepted by the Regional Office with the understanding that the original printed add will be forwarded to the Regional Office immediately after appearance in newspaper.

6. INQUIRIES: Val Castaneda 617.565.2265 or vcastaneda@doleta.gov



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For Workforce Security